

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R2018-026
Amendments to 35 Ill. Adm. Code Subtitle F)	(Rulemaking – Public Water Supply)
)	
)	

To: See attached service list.

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Illinois Environmental Protection Agency’s Comments, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: November 16, 2021

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Clayton J. Ankney, #6320224
 Division of Legal Counsel
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794-9276
 (217) 782-5544
Clayton.Ankney@Illinois.Gov

Respondent,

BY: /s/Clayton J. Ankney
 Clayton J. Ankney

THIS FILING IS SUBMITTED ELECTRONICALLY

SERVICE LIST

ILLINOIS POLLUTION CONTROL BOARD

Don Brown, Clerk

Vanessa Horton, Hearing Officer

James R. Thompson Center

100 W. Randolph, Suite 11-500

Chicago, IL 60601

Don.Brown@illinois.gov

Vanessa.Horton@Illinois.gov

ILLINOIS DEPARTMENT OF NATURAL RESOURCES

Renee Snow

One Natural Resource Way

Springfield, IL 62702

renee.snow@illinois.gov

OFFICE OF THE ATTORNEY GENERAL

Nancy J. Tikalsky

69 West Washington Street

Suite 1800

Chicago, IL 60202

Nancy.Tikalsky@ilag.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R2018-026
Amendments to 35 Ill. Adm. Code Subtitle F)	(Rulemaking – Public Water Supply)
)	
)	

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY’S COMMENTS

The Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by one of its attorneys, and pursuant to the Illinois Pollution Control Board’s June 17, 2021 Opinion and Order, hereby submits its comments, stating as follows:

I. Introduction

On June 17, 2021, the Board entered its Opinion and Order concerning amendments to its public water supply rules. In its Opinion and Order, the Board requested comments from the Illinois Environmental Protection Agency. The Agency’s comments will address the specific questions asked by the Board in its June 17, 2021 Opinion and Order.

II. Responses to Board Questions

1. In Section 615.102, Definitions, the definition of “certification” is vague. Should it be deleted or updated? If it should be updated, how should it be revised?

Agency Response: The definition should not be deleted. The Agency does not believe the definition should be changed since in each instance, with one exception, the word is used consistently to refer to a statement made by a professional based on knowledge and belief. The exception to the usage of the word “certification” is in subsection 615.105(a)(1), when it is used as part of the proper name of a process codified in 35 Ill. Ad. Code Part 670, Minimal Hazard Certification.

2. Also in Section 615.102, should the definition of “waste” be updated to reflect the current statutory definition?

Agency Response: The Agency agrees that the definition of “waste” should be updated to reflect the current definition in the Act.

3. In Section 615.402, Required Closure of Units Located within Minimum Setback Zone, describes closure actions that must occur three years after the effective date of this Part. Should the second sentence of this section be deleted as that time frame has passed?

Agency Response: The second sentence should be deleted. Part 615 is a self-implementing regulation. As such, the presence of a regulated unit could be discovered at any time as part of some other permit-required activity or unrelated inspection. However, because the effective date of the regulation is now known, the Agency recommends Section 615.402 be modified as follows:

~~No~~ A person shall ~~must not~~ cause or allow the operation within a minimum setback zone of any landfill unit commencing two years after the effective date of this Part after January 10, 1994. Closure shall be completed three years after the effective date of this Part of a landfill unit shall be completed within three years.

4. In Section 615.702(b), Required Closure of Units Located within Minimum Setback Zone, describes closure actions that must occur three years after the effective date of this Part. Should subsection (b) be deleted as that time frame has passed?

Agency Response: Subsections (a) and (b) should be combined. Part 615 is a self-implementing regulation. As such, the presence of a regulated unit could be discovered at any time as part of some other permit-required activity or unrelated inspection. However, because the effective date of the regulation is now known, the Agency recommends Section 615.702 be modified as follows:

~~No~~ A person shall ~~must not~~ cause or allow the operation within a minimum setback zone of any road oil storage handling unit after January 10, 1994. Closure of a road oil storage handling unit must be completed within three years.

5. Should Section 617.215, Recharge Area Registration Meeting, identifies an informational meeting that must be held within 30 days after September 1, 2001. Should this section be deleted as being obsolete?

Agency Response: Section 617.215 should not be deleted. While the entirety of Subpart B is obsolete in the sense that it describes the timing and requirements for the adoption of a regulated recharge in one community that has been completed, other sections of Subpart B also refer to the September 1, 2001 date and Subpart B represents a record of the regulated recharge development process. If Section 617.215 were deleted, it would need to be rewritten to show the regulated area that exists.

6. Section 618.100 describes the purpose of the Part. Section 618.200, within the same part, also describes the purpose. Should Section 618.200 be deleted as repetitive?

Agency Response: 618.100 and 618.200 should both remain. 618.200 should remain because it describes the purpose for specific, established maximum setback zones for individual community water supply wells under Subpart B. 618.100 describes a more general purpose for Part 618.

The Agency also notes that on the Board's website, Part 618 includes two subparts titled Subpart B: (1) "SUBPART B: MARQUETTE HEIGHTS' MAXIMUM SETBACK ZONE;" and (2) "SUBPART B: ESTABLISHED MAXIMUM SETBACK ZONES." SUBPART B: MARQUETTE HEIGHTS' MAXIMUM SETBACK ZONES" and the text below it should be removed, leaving only "SUBPART B: ESTABLISHED MAXIMUM SETBACK ZONES" and the text thereafter.

7. Section 620.125 lists an incorporation by reference for "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods". The Board has proposed a revision to this reference in the addendum to this order but notes that USEPA's website no longer gives direct access to printed versions of SW-846 or updates in PDF format. The website now directs to the National Technical Information Service for printed versions, however the linked website does not currently work. Should the reference for this test method be changed, and if so, how?

Agency Response: Before the end of 2021, the Agency plans to submit proposed updates to Part 620, which includes proposed updates to the incorporations by reference. The reference for "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" is included in that forthcoming proposal.

III. Proposed Amendments by the Board

The Agency is in the process of completing its review of the Board's proposed amendments based on its June 17, 2021 Order. The Agency intends to address the Board's proposed amendments in the Agency's post-hearing comments.

Wherefore, the Agency requests the Board accept its responses to the Board's questions and allow the Agency to file post-hearing comments related to the Board's proposed amendments.

Respectfully submitted,

Dated: November 16, 2021

Clayton J. Ankney, #6320224
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
Clayton.Ankney@Illinois.Gov

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

BY: /s/Clayton J. Ankney
Clayton J. Ankney

THIS FILING IS SUBMITTED ELECTRONICALLY

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation certify the following:

That I have served the attached **NOTICE OF FILING** and **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S COMMENTS** by e-mail upon the following:

Don Brown	Don.Brown@illinois.gov
Vanessa Horton	Vanessa.Horton@Illinois.gov
Renee Snow	renee.snow@illinois.gov
Nancy Tikalsky	Nancy.Tikalsky@ilag.gov

That I have served the attached **NOTICE OF FILING** and **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S COMMENTS** upon any other persons, if any, listed on the Service List, by placing a true copy in an envelope duly address bearing proper first-class postage in the United States mail at Springfield, Illinois on November 16, 2021.

That my e-mail address is Clayton.Ankney@Illinois.gov.

That the number of pages in the e-mail transmission is six (6).

That the e-mail transmission took place before 4:30 p.m. on the date of November 16, 2021.

/s/Clayton J. Ankney
Clayton J. Ankney